

### ***4.3 Substantial Compliance***

The Department of Revenue has always used specific requirements to judge the approval or denial of TIF applications. The TIF Law changes of 2004 granted the DOR more flexibility in exercising this authority.

Under sub. 66.1105 (15), substantial compliance is sufficient to give effect to any of the proceedings set forth in the TIF Law, as long as the error or irregularity that exists does not affect substantial justice. DOR makes this determination upon written request, and only on a case by case basis.

Requests for findings of substantial compliance must be submitted to the DOR in writing up to two years from the original date of denial, or upon discovery. A letter:

- detailing the circumstances of the error or irregularity,
- identifying why such an error occurred,
- asserting that the interests of substantial justice have not been impaired, and
- making a request for a finding of substantial compliance

should be mailed to DOR. The most important element of this letter is the part detailing the circumstances of the error or irregularity. The letter should include a reference to the precise statutory section, subsection, and paragraph (and subdivision where appropriate) with which DOR must consider compliance. The part that details why the error occurred should not only give the reason why the law was not strictly complied with, but also provide justification for the error that occurred (reference the resolution delay, or the notification omission, or whatever caused the non-compliance).

If it is determined that the municipality has substantially complied with the law in a way that does not affect substantial justice, the DOR will respond with a letter, phone call or e-mail. The approval of the TID packet will proceed as normal after that determination has been made. No timeframe is prescribed in TIF Law for responding to such requests. The standard timeframe for approval of new or amended TIDs and the TIF workload will affect how these requests are handled.

A new or amended TID approved under the substantial compliance provision will be treated like any other TID. The base value will be determined and increment value will build as it does for any other TID.